

RECORDATION NO 21386-C FILED

SEP 25 '09

11-31 AM

SURFACE TRANSPORTATION BOARD



VIA UPS 2<sup>nd</sup> DAY AIR

September 22, 2009

## FIRST UNION RAIL

One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Tel. 847.318.7575  
Fax. 847.318.7588

Ms. Anne K. Quinlan  
Surface Transportation Board  
395 E Street, S.W., Suite 100  
Washington, D. C. 20024  
Attn: Recordation of Railroad Equipment

**Re: Memorandum of Lease Agreement**

Dear Ms. Quinlan:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) originals and one (1) copy of a Memorandum of Lease Agreement dated September 3, 2009, a secondary document as defined in the Board's Rules for the Recordation of Documents. The enclosed document relates to the Lease Agreement which was duly filed with the Surface Transportation Board under Recordation Number 21386. The names and addresses of the parties to the enclosed document are:

Lessor: First Union Rail Corporation  
One O'Hare Centre  
6250 River Road, Suite 5000  
Rosemont, IL 60018

Lessee: Bighorn Divide & Wyoming Railroad Inc.  
405 East 1<sup>st</sup> Street  
Shoshoni, WY 82649

A description of the railroad equipment covered by the enclosed document is for twenty seven (27) 4750 cu. ft. covered hopper cars; having BDW marks (see Exhibit A for car numbers).

A short summary of the document to appear in the index follows: Memorandum of Lease

Also enclosed is a check in the amount of \$41.00 payable to the order of the Surface Transportation Board covering the required recordation fee. Kindly return one (1) stamped original of the enclosed document to the undersigned along with the additional copies.

If you have any questions regarding the above-referenced matter, please contact me at (847) 384-5397. Thank you for your cooperation in this matter.

Sincerely,

Marcia Dunne  
Senior Rail Documentation Specialist

Enclosures  
(BDW)0071

ASSGN. NO.: BDW007

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## MEMORANDUM OF LEASE

SURFACE TRANSPORTATION BOARD

THIS MEMORANDUM OF LEASE (the "Memorandum") is made and entered into as of this the 3rd day of September, 2009, by and between First Union Rail Corporation ("Lessor"), a North Carolina corporation, and Bighorn Divide & Wyoming Railroad Inc., ("Lessee"), a Wyoming corporation.

## WITNESSETH:

The undersigned Lessor and Lessee have entered into that certain Lease Agreement (the "Lease"), dated as of June 23, 2005, whereby Lessor has agreed to lease to Lessee certain railcars pursuant to Rider No. 2 to the Lease (the "Rider"), as described in more particular on Exhibit A attached hereto, effective as of January 20, 2009, and subject to the terms, conditions and provisions of the above-mentioned Lease and Rider.

IN WITNESS WHEREOF, the parties hereto have each caused this Memorandum to be duly executed under seal by their respective officers duly authorized as of the date and year first above written.

LESSOR:

FIRST UNION RAIL CORPORATION

ATTEST:

By: Richard F. SeymourName: RICHARDE SEYMOUR  
VICE PRESIDENT SALES & MARKETINGBy: Susan GorkulskyName: SUSAN GORKULSKY  
ASSISTANT DIRECTOR  
Title: OF DOCUMENTATIONExecuted on this 3rd day of September, 2009.

[CORPORATE SEAL]

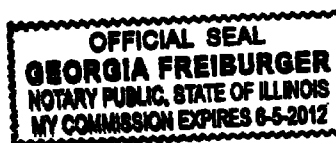
STATE OF ILLINOISCOUNTY OF COOK

I, GEORGIA FREIBURGER, a Notary Public of the County and State aforesaid, certify that RICHARD F. SEYMOUR personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 3rd day of September, 2009.

Notary Public

My Commission Expires:

6-2012  
(Notary Public)

LESSEE:

BIGHORN DIVIDE & WYOMING RAILROAD INC.

ATTEST:

By: Janice Hunter  
Name: Janice Hunter  
Title: CCO

By: [Signature]  
Name: Dave Nelson  
Title: AVP Operations

Executed on this 27<sup>th</sup> day of August, 2009.

[CORPORATE SEAL]

STATE OF Wyoming  
COUNTY OF Fremont

I, Janice F. Hunter, a Notary Public of the County and State aforesaid, certify that David Nelson personally appeared before me this day and acknowledged his/her due execution of the foregoing Memorandum of Lease.

WITNESS my hand and official stamp or seal, this 27<sup>th</sup> day of August, 2009.

Janice F. Hunter  
Notary Public

Commission Expires:

10/9/2012  
(Notary Public)



I.	NUMBER OF CARS:	Twenty-seven (27)
II.	DESCRIPTION OF CARS:	4750 cu. ft. covered hopper cars with vibrator brackets and gravity gates
III.	CAR NUMBERS:	BDW 818908 BDW 829604 BDW 833401 BDW 833405 BDW 833408 BDW 833410 BDW 833412 BDW 833416 BDW 833422 BDW 833433 BDW 833435 BDW 833443 BDW 833445 BDW 833458 BDW 833462 BDW 833464 BDW 833466 BDW 833475 BDW 833489 BDW 833490 BDW 833491 BDW 833495 BDW 833502 BDW 833503 BDW 833506 BDW 833513 BDW 833515